

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent &amp; Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. CV 08-05687 HRL	DATE FILED 12/19/2008	U.S. DISTRICT COURT 280 North First St, Rm 2112, San Jose, CA 95121
PLAINTIFF SYMANTEC CORPORATION		DEFENDANT CROSSROADS SYSTEMS INC.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7 <sup>pts</sup> pg. 2		SEE ATTACHED COMPLAINT
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In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY		
	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK Richard W. Wicking	(BY) DEPUTY CLERK Betty Walton	DATE December 19, 2008
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NO. DIST. OF CAL. S.D.

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E-filing

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN JOSE DIVISION

20 SYMANTEC CORPORATION,  
21 a Delaware Corporation,

22 Plaintiff,

23 v.

24 CROSSROADS SYSTEMS, INC.  
25 a Texas Corporation

26 Defendant.

C08-05687 HRL  
COMPLAINT FOR DECLARATORY  
JUDGMENT

DEMAND FOR JURY TRIAL

27 COMPLAINT

28 Plaintiff Symantec Corporation ("Symantec") hereby pleads the following claims  
29 for Declaratory Judgment against Defendant Crossroads Systems, Inc. ("Crossroads"), and  
30 alleges as follows:

COPY

LATHAM & WATKINS  
ATTORNEYS AT LAW  
LOS ANGELES

COMPLAINT FOR  
DECLARATORY JUDGMENT

FAXED

1 PARTIES

2 1. Plaintiff Symantec is a Delaware Corporation with its principal place of  
3 business at 20330 Stevens Creek Boulevard, Cupertino, California 95014-2132.

4 2. On information and belief, Defendant Crossroads is a Texas Corporation with  
5 its principal place of business at 11000 MoPac Expressway, Austin, Texas, 78759.

6 JURISDICTION AND VENUE

7 3. The Court has subject matter jurisdiction over this action and the matter  
8 pleaded herein under 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the Federal  
9 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the Patent Act of the United States, 35  
10 U.S.C. § 1, *et seq.*

11 4. Venue is proper in the United States District Court for the Northern District  
12 of California pursuant to 28 U.S.C. § 1391(b)(2) in that a substantial part of the acts giving rise  
13 to the claim occurred in this District, and Crossroads is subject to personal jurisdiction in this  
14 District.

15 INTRADISTRICT ASSIGNMENT

16 5. This action for a declaratory judgment of non-infringement and invalidity of  
17 patents is assigned on a district-wide basis under Civil L.R. 3-2(c).

18 GENERAL ALLEGATIONS

19 6. This action involves U.S. Patent No. 5,941,972 ("the '972 patent") attached  
20 hereto as Exhibit A, U.S. Patent No. 6,425,035 ("the '035 patent"), attached hereto as Exhibit B,  
21 U.S. Patent No. 6,421,753 ("the '753 patent"), attached hereto as Exhibit C, U.S. Patent No.  
22 6,763,419 ("the '419 patent"), attached hereto as Exhibit D, U.S. Patent No. 6,738,854 ("the '854  
23 patent"), attached hereto as Exhibit E, U.S. Patent No. 6,789,152 ("the '152 patent"), attached  
24 hereto as Exhibit F, and U.S. Patent No. 7,051,147 ("the '147 patent"), attached hereto as Exhibit  
25 G (collectively "the patents-in-suit"). The '035, '753, '419, '854, '152 and '147 patents all claim  
26 priority to the '972 patent.

27 7. On August 26, 2004, Crossroads sent a letter to Veritas Software Corporation  
28 ("Veritas") offering Veritas a license to the '972 and '035 patents in exchange, in part, for "a

1 royalty rate as a percentage of the net sales of [Veritas] products covered by the '972 or '035  
2 Patents."

3 8. Veritas requested Crossroads to provide Veritas with the basis for  
4 Crossroads' assertions that any of the products or offerings of Veritas were covered by any  
5 claims of the '972 and/or '035 patents. Crossroads indicated that it could not provide such  
6 information to Veritas without a non-disclosure agreement in place. The parties discussed the  
7 non-disclosure agreement for a short period, but did not ultimately reach such an agreement.  
8 Veritas again requested Crossroads' basis for its claims. But the basis was never provided and  
9 the parties had no further communication after the first quarter of 2005 until Crossroads suddenly  
10 reappeared in December of 2008. In 2005, Symantec acquired Veritas.

11 9. On December 12, 2008, Crossroads sent a letter to Symantec offering a  
12 license to the patents-in-suit for "any/all products, potentially including the various storage  
13 foundation products acquired from Veritas" in exchange, in part, for "a running royalty on the  
14 net sales of products using the patented access controls feature."

15 10. Upon information and belief, Crossroads contends that one or more of  
16 Symantec's products infringe one or more claims of the patents-in-suit and that those claims are  
17 valid, although it still has provided Symantec with no basis for such contentions.

18 11. Symantec denies that any of its products infringe any claim of the patents-in-  
19 suit, and also denies that the patents-in-suit are valid.

## 20 **FIRST CLAIM FOR RELIEF**

### 21 **Declaratory Relief Regarding Non-Infringement**

22 12. Symantec incorporates herein the allegations of paragraphs 1-11.

23 13. An actual and justiciable controversy exists between Plaintiff Symantec and  
24 Defendant Crossroads as to the non-infringement of the patents-in-suit, which is evidenced by  
25 Crossroads' allegations that Veritas' products, later acquired by Symantec, as well as other  
26 Symantec products infringe valid claims of the patents-in-suit, and Symantec's allegations  
27 herein.

1                   14. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*,  
2 Symantec requests the declaration of the Court that Symantec does not infringe and has not  
3 infringed any claim of the patents-in-suit.

4                   **SECOND CLAIM FOR RELIEF**

5                   **Declaratory Relief Regarding Invalidity**

6                   15. Symantec incorporates herein the allegations of paragraphs 1-11.

7                   16. An actual and justiciable controversy exists between Plaintiff Symantec and  
8 Defendant Crossroads as to the invalidity of the patents-in-suit, which is evidenced by  
9 Crossroads' allegations that Veritas' products, later acquired by Symantec, as well as other  
10 Symantec products infringe valid claims of the patents-in-suit, and Symantec's allegations  
11 herein.

12                  17. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*,  
13 Symantec requests the declaration of the Court that the patents-in-suit are invalid under the  
14 Patent Act, 35 U.S.C. §§ 41 *et seq.*, including but not limited to sections 102, 103, and 112.

15                  **PRAYER FOR RELIEF**

16                  WHEREFORE, Plaintiff Symantec respectfully requests that the Court enter  
17 declaratory judgment as follows:

18                  1. That Symantec does not infringe and has not infringed, directly or indirectly,  
19 any of the patents-in-suit;

20                  2. That the patents-in-suit are invalid;

21                  3. That Crossroads, and all persons acting on its behalf or in concert with it, be  
22 permanently enjoined and restrained from charging, orally or in writing, that any of the patents-  
23 in-suit is infringed by Symantec, directly or indirectly;

24                  4. That Symantec be awarded its costs, expenses and reasonable attorney fees in  
25 this action; and

26                  5. That Symantec be awarded such other and further relief as the Court may deem  
27 appropriate.

28

DEMAND FOR JURY TRIAL

Plaintiff Symantec respectfully demands a jury trial in this action.

Dated: December 19, 2008

LATHAM & WATKINS LLP

By Mark A. Fligel  
Mark A. Fligel  
Attorneys for Plaintiff  
SYMANTEC CORPORATION